

REGULAR CITY COUNCIL MEETING

MAY 13, 1985

PRESENT

Grant S. Nielson	Mayor
Don Dafoe	Council Member
Neil Dutson	Council Member
Gayle Bunker	Council Member
Craig Greathouse	Council Member
Ruth Hansen	Council Member

ABSENT

None

OTHERS PRESENT

Jim Allan	City Manager
Warren Peterson	City Attorney
Dorothy Jeffery	City Recorder
John Quick	City Engineer
Neil Forster	Public Works Director
Jim Fletcher	KNAK Radio Station
Martin Ludwig	City Resident
John Zeunen	County Resident
Marilyn Greenwood	American Problems Teacher, D.H.S.
Claine Carter	D.H.S. Student
Sylvester J. Pickford, III	D.H.S. Student
Deann Fowles	D.H.S. Student
Leann Warnick	D.H.S. Student
Duane Porter	D.H.S. Student
Rick Callister	D.H.S. Student
Mike Jackson	D.H.S. Student
Dusty Callister	D.H.S. Student
Andrew Jack Nielson	D.H.S. Student
Greg Topham	D.H.S. Student
Kim Jackson	D.H.S. Student
Julie Tolbert	D.H.S. Student
Heather Clark	D.H.S. Student
Dana Bringard	D.H.S. Student

There were others in attendance at the meeting who did not sign the roster.

Mayor Grant Nielson, being present, called the meeting to order at 7:00 p.m. Dorothy Jeffery, Delta City Recorder, being present, acted as secretary. Mayor Nielson stated that notice of the meeting time, place and agenda were posted at the principal office of the governing body located at 76 North 200

West and was provided to the Millard County Chronicle Progress, the Millard County Gazette, the local radio station, KNAK, and to each member of the City Council by personal delivery two days prior to the meeting.

MINUTES

The minutes of a regular City Council meeting held May 6, 1985, were presented for the Council's consideration and approval. Following a brief discussion of the minutes, Council Member Ruth Hansen MOVED that the minutes be approved as presented. Council Member Neil Dutson SECONDED the motion. The motion passed unanimously.

The minutes of a Delta Estates Special Improvement District Board of Equalization meeting held April 15, 1985, were presented for the Council's consideration and approval. Following a brief discussion of the minutes, Council Member Craig Greathouse MOVED to approve the minutes as corrected. The motion was SECONDED by Council Member Don Dafoe. The motion passed unanimously.

The minutes of a Delta Estates Special Improvement District Board of Equalization meeting held April 16, 1985, were presented for the Council's consideration and approval. Following a brief discussion of the minutes, Council Member Craig Greathouse MOVED that the minutes be approved as corrected. The motion was SECONDED by Council Member Ruth Hansen. Mayor Nielson called for a vote on the motion. The motion passed unanimously.

The minutes of a Delta Estates Special Improvement District Board of Equalization meeting held April 17, 1985, were presented for the Council's consideration and approval. The Council reviewed the minutes briefly, after which Council Member Craig Greathouse MOVED to approve the minutes as corrected. The motion was SECONDED by Council Member Neil Dutson. The motion passed unanimously.

The minutes of a regular City Council meeting held March 25, 1985, were presented for the Council's consideration and approval. The Council reviewed the minutes briefly, after which Council Member Neil Dutson MOVED that the minutes be approved as corrected. The motion was SECONDED by Council Member Gayle Bunker. Mayor Nielson asked if there were any further comments or questions regarding the minutes or the motion. There being none, he called for a vote on the motion. The motion passed unanimously.

The minutes of a regular City Council meeting held December 17, 1984, were presented for the Council's consideration and approval. There was a general discussion of the minutes by the Council, after which Attorney Peterson explained that the City Recorder, Dorothy Jeffery, was not present at the meeting; therefore, Doyle Bender had been asked to take the minutes and there was no information in his notes regarding the section concerning the discussion of the Delta City Building Architectural Contract with Randy Green. Attorney Peterson further stated he had been asked to check his notes of that meeting for any information he could find and possibly write the minutes for that section. Attorney Peterson stated that he had not had

time in the past week to do the research necessary and requested that the minutes be tabled and that he would try to have his notes completed by the next regular City Council meeting.

Council Member Don Dafoe MOVED to table December 17, 1984 regular City Council meeting minutes, thus allowing Attorney Peterson necessary time to complete his research. The motion was SECONDED by Council Member Neil Dutson. Mayor Nielson asked if there were any further questions or comments regarding the motion or the minutes. There being none, he called for a vote on the motion. The motion passed unanimously.

JOHN ZEUNEN/NEIL DUTSON: DISCUSSION OF WATER CONNECTION ON WEST SIDE OF DELTA OUTSIDE OF THE CITY LIMITS

Mayor Nielson requested that City Manager Jim Allan make a presentation on the proposed water connection for John Zeunen. City Manager Jim Allan said he had discussed this matter with Council Member Neil Dutson, and the Council should be aware of the following issues:

1. Delta City has previously adopted by Resolution No. 80-02 which established a moratorium for any water connection and/or sewer service outside of the City limits. The Council could instruct Attorney Peterson to prepare a resolution amending Resolution No. 80-02 if they so desired.
2. There is a problem with the service lines in that area west of Delta inasmuch as Delta City is supplying water service to some of the businesses there, and the water line is not adequate for fire protection. This could create serious problems for Delta City.
3. If additional connections are added to an already inadequate water line, this would increase the liability for Delta City.

Mayor Nielson then asked Public Works Director Neil Forster to explain where and what size water lines are in the area west of the Delta City limits. Mr. Forster then reviewed with the Council the water lines and connections in the Lyman Row residential area, as well as the business area along the highway west of the City limits. There was a general discussion by the Council regarding the possibility of the annexation of those properties and the upgrading of the water lines that are presently servicing the residences and businesses in that location.

Council Member Don Dafoe said that Delta City needs this property annexed into the City. The City needs to encourage new growth in the area, and if this property was to be annexed, it would increase the possibility of additional businesses locating in Delta.

There was some discussion of allowing a temporary water connection for Mr. Zeunen for approximately 120 days while the possibility of annexation is being explored. City Manager Jim Allan suggested the Council could create a

redevelopment district in that location, and if that property were annexed, it would allow the tax monies received from that area to be used for improvements to the water system.

The Council discussed the possibility of obtaining redevelopment district grant monies because the present water lines are inadequate for fire protection.

Following further discussion of the issue, Council Member Gayle Bunker MOVED that John Zeunen's request for a Delta City water connection be granted for a temporary time period of 120 days while the possibility of annexation is being explored on the condition that Mr. Zeunen agree to annexation and if the proposed annexation does not materialize, the contract for water service will be discontinued at the end of the 120 days.

Mr. Zeunen asked if there would be a possibility of an extension of time if the annexation was not completed within the 120 days. Mr. Zeunen's question was followed by Attorney Peterson advising the Council on the legal effects of such Council action. Council Member Gayle Bunker then withdrew his motion and MOVED that an amendment be prepared to Resolution No. 80-02, adopted May 19, 1980 (which placed a moratorium on providing water services outside of the City limits). The amendment would allow temporary hookups in the areas that are under consideration for annexation to the City. Also, that an agreement be prepared that such a property owner could have a temporary connection for 120 days and the owner would petition for annexation; and, if the annexation is not proceeding within 120 days, the contract for water services will terminate. The party contracting for the water services must acknowledge that the water service is on a temporary basis. Mr. Bunker further MOVED that during the aforementioned 120 day period, Delta City will instruct City Engineer John Quick to do a feasibility study on water service improvements and that the City determine what incentives the Delta City Council can offer the landowners on the west side of Delta City limits to consider annexation. The motion was SECONDED by Council Member Don Dafoe. Mayor Nielson then asked if there were any further questions or comments regarding the motion. There being none, the voting was as follows:

Council Member Neil Dutson	Abstained
Council Member Don Dafoe	Yes
Council Member Ruth Hansen	Yes
Council Member Gayle Bunker	Yes
Council Member Craig Greathouse	No

The motion passed with a three to one vote.

CITY MANAGER JIM ALLAN: DISCUSSION/ACCEPTANCE OF UTAH POWER & LIGHT COMPANY
ELECTRIC SERVICE AGREEMENT FOR DELTA CITY SHOP AND PUMP HOUSE AT 450 NORTH
100 WEST

Mayor Nielson requested that City Manager Jim Allan make the presentation of the corrected Utah Power & Light Agreement with Delta City for electrical service at the Delta City Shop and Pump House located at 450 South 100 West.

City Manager Jim Allan reviewed the document with the Council and explained that the original agreement had listed the voltage as 120-240. The contract was modified so the voltage was listed as 240-480. Council Member Don Dafoe MOVED that the Council authorize Mayor Nielson to sign the contract with Utah Power & Light for electrical service to the Delta Shop and Pump House located at 450 North 100 West. The motion was SECONDED by Council Member Ruth Hansen. Mayor Nielson asked if there were any further questions or comments regarding the motion or the agreement. There being none, he called for a vote on the motion. The motion passed unanimously.

PUBLIC WORKS DIRECTOR NEIL FORSTER: REPORT ON BID ADJUSTMENT FOR ONE-TON TRUCK

Mayor Nielson requested that Public Works Director Neil Forster make a report to the Council on the bid adjustment on a one-ton truck purchased for the Public Works Department. Mr. Foster presented the Council with a copy of the following letter dated 5/13/85 from L. Kennard Riding:

To Whom It May Concern:

When the bid for this truck was made up, there were two 351 engines available. (One was a high output engine.) About two or three days later a change came dropping the cheaper engine in favor of the high output 351 for the F350 chasis and cab model. The problem with the newer engine is that it only came with the automatic transmission. Since the City of Delta required a four-speed transmission (an automatic would have cost \$571), it was decided to go to a 460 engine and a heavy duty four speed.

This engine will perform favorably with any kind of heavy load and will be as economical as a 351 under the same load stress. The cost of the 351 high output engine, and the automatic transmission would have been \$878.30 more than the bid, whereas the price of the 460 engine with the heavy duty four-speed is only \$597.70 more than the original bid. This is the reason why I was told to not hold up on the building of the truck as this was the cheaper and the better way to go.

Sincerely,

L. Kennard Riding

Following the presentation of the letter, Mr. Forster explained the next lowest bid received on the one-ton truck was \$1,100 more than the bid received from Kennard Riding. The additional cost of \$597.70 to the Kennard Riding original bid would still be approximately \$600 under the next lowest bid. Mr. Foster then requested the Council's approval to purchase the one-ton truck including the \$597.70 increase in price with the 460 engine.

Council Member Don Dafoe MOVED that the Council authorize Public Works Director Neil Forster to purchase the one-ton truck from Riding Ford including the \$597.70 increase in bid for the 460 engine. The motion was SECONDED by Council Member Gayle Bunker. Mayor Nielson asked if there were any further questions or comments regarding the motion. There being none, he called for a vote on the motion. The motion passed unanimously.

CITY ENGINEER JOHN QUICK: CONSIDERATION FOR APPROVAL OF PAYMENT FOR THE WORK COMPLETED BY BUSH & GUDGELL FOR THE STREET IMPROVEMENT PROJECT

Mayor Nielson asked City Engineer John Quick to present the bills from Bush & Gudgell for work completed on the Street Improvement Project. City Engineer John Quick presented the following bills for the Council's consideration:

1. For the work completed on the Storm Drain Design - \$2,799.94.
2. For the work completed on the Street Improvement Project for the preparing of plans, profiles, specifications, and contract documents - \$7,265.55.

Following a brief discussion of the bills, Council Member Craig Greathouse MOVED that the Council approve payment of the bills to Bush & Gudgell in the amount of \$7,265.55 for work completed on the Street Improvement Project and \$3,799.94 for work completed on the Storm Drain Design. The motion was SECONDED by Council Member Neil Dutson. Mayor Nielson then asked if there were any further comments or questions regarding the motion or the bills. There being none, he called for a vote on the motion. The motion passed unanimously.

ATTORNEY WARREN PETERSON: DISCUSSION/DECISION OF WELL EXCHANGE APPLICATION MERVYN WILLIAMS/RUSSELL GREATHOUSE

Mayor Nielson asked Attorney Warren Peterson to address the issue of the well exchange application from Mervyn Williams/Russell Greathouse. Attorney Peterson explained that the issue involved some litigation strategy; therefore he asked the Council if they wanted to discuss the issue in open or closed meeting. Following a brief discussion of the issue, it was the opinion of the Council that the issue would be discussed at the end of the meeting, at which time the Council could determine if the matter should be discussed in closed session.

PUBLIC WORKS DIRECTOR NEIL FORSTER: CHANGE ORDER TO PAINT "D" ON THE DELTA CITY WATER TOWER

Mayor Nielson asked Public Works Director Neil Forster to address the issue of the Delta High School American Problems Class request that Delta City paint a large "D" on the Delta City water tower. Mr. Forster reviewed with the Council a request received from the Delta High School students in Marilyn Greenwood's class in obtaining the cost of the proposed project and present it to the Council. Mr. Forster then stated that the cost of the

project was estimated to be \$992. Following a general discussion of the issue, the American Problems Class students agreed to raise one-third of the cost or \$300 with Keith Johnson and Rick Callister volunteering to be in charge of the fund raising.

Council Member Craig Greathouse MOVED that the Council grant approval for a large red "D" to be painted on the Delta City water tower at an additional cost of approximately \$992 over the original water tower painting contract. The American Problems Class from the Delta High School will be responsible to pay \$300 of that cost with the balance of \$692 be paid from the Delta City's O & M Budget. The motion was SECONDED by Council Member Don Dafoe. Mayor Nielson then asked if there were any further questions or comments regarding the issue. There being none, he called for a vote on the motion. The motion passed unanimously. Mayor Nielson then thanked Mrs. Greenwood for her interest in the community activities and congratulated the students on their participation in the project. Mrs. Greenwood then thanked Public Works Director Neil Forster for helping her students to understand the interworkings of the local government.

Mayor Nielson, Council Member Ruth Hansen and Council Member Craig Greathouse all volunteered to donate \$25.00 to the "D" fund.

CITY ENGINEER JOHN QUICK: CONSIDERATION OF APPROVAL OF PRELIMINARY AND FINAL PLAT FOR THE NOR DEL II SUBDIVISION

Mayor Nielson asked City Engineer John Quick to address the issue of request for approval of preliminary and final plat maps for the Nor Del II Subdivision. Mr. Quick displayed a large plat map of the Nor Del II Subdivision for the Council's review and consideration.

Mr. Quick explained that there are five one-half acre lots 86 feet wide and 206 feet long in the proposed subdivision. The utilities, and the water/sewer connections have all been installed; the curb, gutter and sidewalks are also in place. Mr. Quick recommended a fire hydrant be installed by the entrance of the proposed subdivision. Mr. Quick also stated his concern over whether the vacated portion of 400 North Street should be indicated in the plat. He noted that there are existing lots on the south side of this vacated street and this subdivision proposed lots on the north side.

Following a general discussion of the issue, Council Member Don Dafoe MOVED the Council grant the approval of the preliminary and final plat maps for Nor Del II Subdivision subject to a fire hydrant being installed by the entrance at 350 East 450 North of the proposed subdivision.

Attorney Peterson said he had two concerns regarding the subdivision. The first concern was the 49 foot strip of the vacated 400 North Street, which would constitute a protective strip and under the Delta City subdivision ordinance cannot be allowed. The second concern Mr. Peterson voiced was that there is no fencing of the open drain located within the subdivision shown on the plat map.

There followed a very lengthy discussion of the 49 foot strip of property along the north side of each of the five lots within the Nor Del II Subdivision. Council Member Don Dafoe amended his motion to state he would MOVE the Council grant the approval of the preliminary and final plat map for Nor Del II Subdivision, subject to a fire hydrant being installed in the close proximity of Lot No. 1, enabling the fire department to reach all the lots within the subdivision and a fence be installed along the north side of the drain on the five lots and the 49 foot strip of property which was a part of the vacated 450 North Street will be deeded to each property owner as the lots are sold.

The motion was SECONDED by Council Member Craig Greathouse. Mayor Nielson then asked if there were any further questions or comments regarding the motion or the subdivision. There being none, he called for a vote on the motion. The motion passed unanimously.

MAYOR GRANT NIELSON: CONSIDERATION OF APPROVAL FOR MILLARD COUNTY TO UPGRADE CITY SHARE OF CEMETERY ROAD

Mayor Nielson reviewed with the Council the meeting the Council had held with the Millard County Commissioners approximately two weeks earlier regarding the upgrading of the City's share of the cemetery road. The Millard County Commissioners volunteered the use of the Millard County Road equipment for use on the City's share of the project if the City would pay the Millard County Road employees at the rate of time and one-half for operating the equipment and the cost of the motor fuel used. Mayor Nielson also said he had met with the Commissioners on May 6 and was told that Millard County will be using tree sap on the road project instead of oil, which they have found is much more economical than using oil.

Mayor Nielson said he had asked the County Commissioners if the County would do the City's share of the project while they were doing the County's share subject to the approval of the City Council. The Commissioners agreed this could be done. Mayor Nielson then displayed a map of the area for the Council's review and explained there is approximately 3/8 of a mile the City will be responsible for. Mayor Nielson said the stop signs have been removed on this road and when the project is complete the road will be a through road from Highway 6 west to the newly developed Jones road. He said the Sutherland bridge is almost complete which will also make it a safer way for the IPP workers to travel to and from the IPP plant site.

City Manager Jim Allan stated that lignum sulfate is a material that will be used for this project. The cost per mile is approximately \$20,000 versus \$50,000 for the use of regular oil. The lignum sulfate will cost approximately \$.15 a square foot plus the cost for the grading and the laying of the gravel. Russell Greathouse, a county resident who was in attendance at this meeting, stated that he owns some of the land where the new road will be and said he will be willing to donate the gravel from this gravel pit if the gravel will meet the required specifications for the project.

There was a general discussion of the funding for the project and the total cost. Mayor Nielson suggested the issue be tabled, allowing the Council some time to review the matter and become more familiar with the particular project before any Council action is taken. Council Member Neil Dutson MOVED to table any further action regarding the road project until the next regular City Council meeting, thus allowing for additional research to be completed. The motion was SECONDED by Council Member Gayle Bunker. The Mayor then asked if there were any further questions or comments regarding the issue or the motion. There being none, he called for a vote on the motion. The motion passed unanimously.

Mayor Nielson then asked Attorney Warren Peterson to address the issue of the water rights change application filed by Mervyn Williams that had been briefly discussed at the beginning of the meeting.

Attorney Peterson told the Council that Mr. Williams had filed a change application to transfer water from a well in the Topaz area into the Delta City "Gardner Well" or "S & G Well". Attorney Peterson further stated that he had notes dated June 19, 1984, from a discussion with Mervyn Williams regarding the change application. Mr. Williams had said the change application would probably be withdrawn. Mr. Williams said that he would talk to Russell Greathouse and get back with Attorney Peterson on June 20 and let him know. Mr. Greathouse had said the well application was for the development of Russell Greathouse's property.

Attorney Peterson said he had explained to Mr. Williams that the procedure of dealing with Delta City water rights is, if there is a specific development, the City could determine the time within which the water would be dedicated and the amount of water that would be required for the water rights dedication. He explained that the City does not want change applications for water to be brought into the City until the amount needed could be established. He also said Mr. Williams did not keep the June 20th appointment.

Mr. Peterson further stated the total amount of the water change application is 206 acre feet. He said the State Engineer rejected this particular change application. He said a lawsuit has been filed appealing the State Engineer's decision on change application no. 12745 (68-2460). Since this matter is heard de novo in District Court under the provisions of Section 73.3-14 & 15 of Utah Code Annotated, Delta City may be an indispensable party and may be joined in this action.

Dallin Jensen, the Solicitor General for the State of Utah, did call Attorney Peterson's office and inform Attorney Peterson that they were filing the forementioned answer alleging that Delta City is an indispensable party to the lawsuit.

Mr. Peterson said there are several responses that Delta City could take:

1. Not to become a party or resist any effort for Delta City to be made a party.

2. To be passive and if joined as a party, then respond appropriately. Otherwise, not take any action.
3. To become a party voluntarily but to be a passive party.
4. To become a party and take an active role.

Attorney Peterson said there are reasons the Council might favor the 3rd or 4th alternative. Council Member Gayle Bunker questioned what Attorney Peterson meant by being a passive party in the litigation. Mr. Peterson responded that the City would allow the State of Utah to handle as much of the litigation as possible, since the interests of Delta City and the State of Utah were very similar. He said the Solicitor General's Office has offered to provide the expert witnesses and other support necessary for the litigation, thereby sparing much cost to Delta City.

Attorney Peterson said the S & G Well and the 16 inch well located at 350 West and 50 South, are the major wells supplying the City at the present time. The change application Mr. Williams filed is to move his water into and have it pumped out of the S & G Well, or the so-called Gardner Well. Council Member Craig Greathouse asked where Mr. Williams was moving the well from. Attorney Peterson answered that it was from around the Topaz area.

Council Member Gayle Bunker asked Attorney Peterson how the State Engineer had ruled on the change application. Attorney Peterson stated that the State Engineer had rejected the application. Mr. Williams has now filed against the State Engineer rejecting his change application. He said the change application was protested by the Christensen group and the Madsen family, both of which are participating in the proposed annexation east of Delta City. A representative from Delta City, the Christensen and Madsen groups and the DMAD irrigation companies had attended the protest hearing. The State Engineer rejected Mr. Williams' change application on February 22, 1985. Mr. Williams then filed his complaint appealing that decision on April 12, 1985.

Mr. Peterson said that the change application was rejected in part because it seeks to transfer water into the critical drawdown or "red circle" area of the Sevier Desert aquifer as identified by the Utah State Engineer's Office. The lawsuit filed by Mr. Williams challenges the "red circle" concept, Mr. Peterson said. He also said the "red circle" policy is useful in protecting the Delta City's water rights. There was a general discussion on the "red circle" concept. The "red circle" concept is being attacked during this litigation. Attorney Peterson stated he had further information regarding this strategy, but unless the Council wanted to go into closed session, he would recommend that they did not discuss the issue because of the litigation. Following further discussion, Council Member Don Dafoe MOVED that Delta City be a party in a passive role in the litigation regarding the Mervyn Williams change application. The motion was SECONDED by Council Member Neil Dutson. Mayor Nielson then asked if there

were any further questions or comments regarding the issue. There being none, he called for a vote on the motion. Council Members Neil Dutson, Ruth Hansen, Don Dafoe and Craig Greathouse all voted yes. Council Member Gayle Bunker abstained. The motion carried.

Mayor Nielson then asked if there were any further comments or questions to be discussed. There being none, Council Member Neil Dutson MOVED to adjourn the meeting. Council Member Don Dafoe SECONDED the motion. The motion passed unanimously and the meeting adjourned at 10:45 p.m.


GRANT S. NIELSON, Mayor

Attest:


DOROTHY JEFFERY
Delta City Recorder

MINUTES APPROVED: June 3, 1985